

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

KEITH D. BREWER **PLAINTIFF**
V. **NO. 2:09CV089-P-D**
NANCY LIDDELL, et. al **DEFENDANTS**

ORDER DENYING MOTION

On May 22, 2009, the Plaintiff an inmate proceeding *pro se* filed his complaint pursuant to 42 U.S.C. § 1983. Since the Plaintiff is currently incarcerated in Grady, Arkansas, the matter was dismissed without prejudice to his right to re-file upon his return to this state or release from confinement. The Plaintiff has now filed a motion for reconsideration of the dismissal which the court will treat as a motion to alter or amend the judgment under Rule 60(b) of the Federal Rules of Civil Procedure.

As before, after reviewing the original pleadings as well as the motion and the applicable law, the court concludes that the June 30, 2009, dismissal was correct in law and fact and that Plaintiff has failed to produce a factual or legal basis to alter the court's ruling. *See Heck v. Humphrey*, 512 U.S. 477, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994) (a cause of action does not accrue under 42 U.S.C. § 1983 until the plaintiff's conviction or sentence has been invalidated). Therefore, the motion to alter or amend judgment (docket entry 11) is hereby DENIED. The Plaintiff's motion to appoint counsel (docket entry 12) is also DENIED as moot.

SO ORDERED:

THIS, the 9th day of July, 2009.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE